

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1988 (OAPCA)

25-3. Administrative Enforcement: Issuance of Complaints and
Signing of Consent Agreements

1. AUTHORITY. Pursuant to the Organotin Antifouling Paint Control Act of 1988 (OAPCA):
 - a. to issue complaints;
 - b. to evaluate the appropriateness of civil penalties; and
 - c. to negotiate and sign consent agreements memorializing settlements between the Agency and respondents.
2. TO WHOM DELEGATED.
 - a. The authorities in 1.a. - 1.c. are delegated to the Director, Land and Chemicals Division (LCD); and the Director, Office of Enforcement, Compliance and Environmental Justice (OECEJ).
 - c. The authorities in 1.b. and 1.c. are delegated to the Regional Counsel.
3. LIMITATIONS.
 - a. Designees must consult with the Assistant Administrator for Enforcement and Compliance Assurance or designee before exercising any of the above authorities. In addition, once the alleged violator files an answer or fails to file an answer in the specified time period, the Regional Counsel or designee and technical program staff will conduct all negotiations.
 - b. The delegates other than Regional Counsel must consult with the Regional Counsel before exercising any of the above authorities.
 - c. The Director OECEJ may exercise this authority only in multi-media cases.
 - d. The Director OECEJ must consult with the LCD delegatee before exercising this authority.
4. REDELEGATION AUTHORITY. This authority may not be redelegated.

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5. ADDITIONAL REFERENCES.

- a. Section 10 of OAPCA.
- b. The Agency official who signs the complaint should sign the settlement agreement.
- c. The Office of Prevention, Pesticides, and Toxic Substances will waive consultation by memorandum as Regional Offices gain experience in particular programs.
- d. The Assistant Administrator for Enforcement and Compliance Assurance may exercise these authorities in multi-Regional cases or cases of national significance. In addition, once the alleged violator files an answer or fails to file an answer in the specified time period, the Assistant Administrator for Enforcement and Compliance Assurance or designee will conduct all negotiations.
- e. The Assistant Administrator for Enforcement and Compliance Assurance may waive the above consultation requirement by memorandum.
- f. The authority to promulgate rules of practice governing public hearings conducted in the assessment of a civil penalty against any violator of the Act is reserved to the Administrator.

Date 9/30/98

/s/ Thomas C. Voltaggio
W. Michael McCabe
Regional Administrator